

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MELVIN LEROY TYLER,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:08CV1096 TIA
)	
MISSOURI BOARD OF PROBATION)	
AND PAROLE,)	
)	
Respondent.)	

OPINION, MEMORANDUM AND ORDER OF TRANSFER

This matter is before the Court upon the application of Melvin Leroy Tyler for leave to commence this action without payment of the required filing fee. Upon consideration of the financial information provided with the application, the Court will grant petitioner provisional leave to file this action pursuant to 28 U.S.C. § 1915(a).

The Petition

Petitioner, an inmate at the Jefferson City Correctional Center, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner states that “[t]his is a parole case” and involves an “[i]llegal and unconstitutional conspiracy to take away legitimate parole by fraud.”

Discussion

Pursuant to 28 U.S.C. § 2241(d), the Eastern District of Missouri and the Western District of Missouri have concurrent jurisdiction to entertain the instant petition. Where two district courts have concurrent jurisdiction over a petition for a writ of habeas corpus, the district in which the petition is originally filed may, in the exercise of its discretion and in furtherance of justice, transfer the petition to the other district court for hearing and determination. 28 U.S.C. § 2241(d). Furthermore, on January 27, 1986, this Court entered an order stating that, absent unusual

circumstances, any habeas corpus petition challenging a conviction or sentence arising out of a proceeding in the Western District of Missouri shall be transferred to that district pursuant to 28 U.S.C. § 2241(d). See In re: Business of the Court, January 27, 1986. Petitioner is challenging parole proceedings and decisions that took place in the Western District of Missouri, where he is incarcerated. As such, the Court believes that the interest of justice would be better served if the petition were transferred to the United States District Court for the Western District of Missouri.

Therefore,

IT IS HEREBY ORDERED that petitioner's motion for leave to proceed in forma pauperis [Doc. #2] is **PROVISIONALLY GRANTED**. Because this case is to be transferred to the United States District Court for the Western District of Missouri, such leave to proceed in forma pauperis is subject to modification by the Western District upon transfer.

IT IS FURTHER ORDERED that the Clerk shall **TRANSFER** the instant application for writ of habeas corpus pursuant to 28 U.S.C. § 2254 to the United States District Court for the Western District of Missouri pursuant to 28 U.S.C. § 1631.

An appropriate separate order of transfer shall accompany this memorandum and order.

Dated this 12th day of August, 2008



UNITED STATES DISTRICT JUDGE